REMARKS

Claim Changes

Claims 10 and 39 have been amended to recite "first remote network device to the second remote network device after performing a measurement test on the link between the first remote network device and second remote network device, wherein the measurement test is performed." These changes are based at least on FIG. 7 and the accompanying description on pages 13 and 14, paragraph 0051 of the specification, as filed. Thus, no new matter is added.

Acknowledgement of Allowable Subject Matter

Applicant thanks the Examiner for indicating the allowability of claims 4, 5, 7-9, 11-13, 15-17, 18-37, 40, and 41.

Rejection of Claims 1-3, 6, 10, 14, 38, and 39 under 35 U.S.C. § 103 (a) as being unpatentable over US 2002/0161755) (Moriarty) in view of "IPMP draft-mcgregor-ipmp-OO.txt" (McGregor)

Applicant respectfully traverses in part and amends in part. Applicant has amended the claims to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1-3, 6, 10, 14, 38, and 39 under 35 U.S.C. § 103(a) as being unpatentable over Moriarty in view of McGregor.

The office Action on page 2, item 2 states "[r]egarding claim 1 and 38, Moriarty teaches a method for…performing a measurement test of the link between the first remote network device and the second remote network device (step SS5 in Figure 4 and step 16 in Figure 3)." Applicant respectfully disagrees.

Applicant respectfully submits that the combination of Moriarty and Mcgregor does not teach or suggest all the claim limitations as set forth in independent claims 1, 10, 38, and 39. For example, independent claims 1, 10, 38, and 39 recite "[performing] perform a measurement test of the link *between the first remote network device and the second remote network device*" which are not taught or suggested in the combination of Moriarty and Mcgregor.

Moriarty is directed towards a method for intercepting, by a border device, a performance measurement packet for a specified recipient in order to relieve problems that arise when

performance metric packets are interpreted as harmful to a recipient network or server. See Moriarty Abstract

Moriarty in paragraph 0026 states "[f]IG. 1 represents a connection between the sender 1 and a recipient 2. The sender 1 may be, for example, an individual establishing connection to the recipient 2 via a personal computer or a server of a local area network. In addition, the sender 1 may be a device or entity which requests performance measurement information for use with its applications such as a load balancer server. The recipient 3 may similarly be an individual or part of a network of potential recipients. At a border of the recipient personal computer or network a border device 3 is positioned. The border device 3 provides information regarding the connection between the sender 1 and recipient 2 on behalf of the recipient 2 and at the same time conceals its own identity. More specifically, the border device 3 provides a response to the sender 1 including performance metrics such as the TTL and RTT regarding the connection between the border device 3 and the sender 1." Further, Moriarty in paragraph 0027 states "[f]IG. 3 illustrates a procedure for gathering information about a connection between the sender 1 and recipient 2 illustrated in FIG. 1. At step 10, the sender 1 generates an information query, such as a performance measurement packet 20 as shown in FIG. 2, for example, to request information about connection between the sender 1 and recipient 2. At step 12 the performance measurement packet 20 is sent to the recipient 2. The performance measurement packet 20 includes a destination address or network number 22 that corresponds to the recipient 2. At step 14 the border device 3 receives the performance measurement packet 20. If the destination address or network number 22 of the performance measurement packet 22 matches that of a range of addresses corresponding to a group of at least one recipient for which the border device 3 is to respond, at step 16, the border unit 3 generates a response, or response packet 24 as illustrated in FIG. 2, to the performance measurement packet 20 and includes the information about the connection requested by the sender 1. Such information generally includes the RTT (not shown) and TTL 23 between sender 1 and recipient 2. However, the performance metric packet 20 never reaches the recipient 2, instead the border device 3 responds with information regarding the path to the border device 3. The border device 3 also includes the original destination address or network number 22 of the recipient as the source address of the response packet 24. At step 18 the response is returned to the sender 1 and the information is used to determine the best path

between recipient and sender or otherwise utilized by the application requiring the metric information."

Therefore in view of the above citations, Moriarty merely describes a method, wherein a sender 1 requests performance measurement information from a recipient 2, wherein a border device is positioned between the sender and the recipient. The border device on receiving the request, for performance measurement information, responds with the performance metrics for the path between the border device and the sender 1. However, Moriarty does not describe that on receiving the performance measurement packet, from the sender 1, the border device 3 performs a measurement test on the link between itself and the recipient 2. Thus, Moriarty fails to disclose (emphasis added) "[performing] *perform a measurement test of the link between the first remote network device and the second remote network device*" as recited by independent claims 1, 10, 38, and 39. Since the combination of Moriarty and Mcgregor fails to disclose Applicant's claimed invention as claimed in independent claims 1, 10, 38, and 39, Applicant respectfully requests withdrawal of the rejection of claims 1, 10, 38, and 39 under 35 USC 103(b). Applicant requests that claims 1, 10, 38, and 39 now be passed to allowance.

Dependent claims 2-3, 6, and 14 depend from, and include all the limitations of independent claims 1 and 10. Therefore, Applicant respectfully requests the reconsideration of dependent claims 2-3, 6, and 14 and requests withdrawal of the rejection.

Conclusion

Applicant has reviewed the other references of record and believes that Applicant's claimed invention is patentably distinct and nonobvious over each reference taken alone or in combination. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

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Respectfully submitted,

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